

REMARKS

This is a full and timely response to the outstanding final Office Action mailed June 23, 2005 (Paper No. 06172005). Upon entry of this response, claims 2, 4-5, and 8-19 are pending in the application. Applicant respectfully requests that there be reconsideration of all pending claims.

1. Rejection of Claims 2, 4, 8-13, and 17-19 under 35 U.S.C. §103

Claims 2, 4, 8-13, and 17-19 have been rejected under §103(a) as allegedly obvious over *Phillips et al.* (U.S. 6,577,631) in view of *Downes* ("Internetworking Handbook"). Applicant respectfully traverses these rejections. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claims 2, 8, and 13

1) The proposed combination does not disclose, teach, or suggest "voice packets"

The system disclosed in *Phillips et al.* uses the well-known technique of TDM multiplexing. "FIG. 2 indicates how the data and voice channels may be time division multiplexed for transmission over the subscriber line DSL 100. The two channels are preferably multiplexed through an ISDN 'U' or basic access interface which carries two B or bearer channels at 64 kb/s each and a D or data channel at 16 kb/s which is normally used for control signalling." (Col. 3, lines 25-30.) "The computer device will typically produce and receive asynchronous digital signals through an RS-132 or similar serial port, for example, and the

interface 42 converts these to and from a synchronous data flow as required by the M/D 40. The telephone device typically generates and receives analogue signals through a BT socket for example, and the SLIC 43 converts these to and from digital signals as required by the M/D 40. TDM signals passing between the subscriber premises 11 and the exchange 15 are transmitted and received on the subscriber line 100.” (Col. 4, lines 5-15).

Thus, the system described in *Phillips et al.* uses a telephony technique which assigns voice and data channels to particular time slots, so that bits representing a particular channel appear in fixed time positions on the channel. *Phillips et al.* does not disclose, teach, or suggest the use of packets to carry either voice or data. *Downes* discloses the use of Ethernet to carry data in packets, but does not disclose, teach, or suggest carrying voice in packets.

In contrast, Applicant’s invention as defined by claims 2, 8, and 13 transports voice over the WAN circuit in *packets*. Claim 2 recites “a packet flow device configured to mix said labeled packets and said voice packets into a stream provided to said WAN circuit.” Claim 8 recites “a WAN interface configured to communicate the multiplexed stream of voice packets and labeled data packets over the WAN circuit.” Claim 13 recites “multiplexing the labeled data packets and the voice packets over the WAN circuit.” *Phillips et al.* and *Downes* do not disclose, teach, or suggest these features, either when considered alone or in combination.

2) The proposed combination does not disclose, teach, or suggest “fragmenting Ethernet data signals into labeled packets”

Neither *Phillips et al.* nor *Downes* discloses, teaches, or suggests “fragmenting Ethernet data signals,” either when considered alone or in combination. The Office Action alleges that modifying the system in *Phillips et al.* to use the Ethernet interface of *Downes* would be obvious, and that “the Ethernet frames would necessarily have to be fragmented, since the data capacity of the WAN could be as low as 64 kb/s.” (Office Action, p. 5.) Even assuming, *arguendo*, that the

modification would be obvious, Applicant respectfully disagrees that in this combination would “necessarily” fragment Ethernet frames. Applicant notes at least one other solution to the disparity between the bandwidth of the PC’s Ethernet link and the slower WAN link, which is to buffer incoming Ethernet frames. Since at least one other solution is possible, fragmentation is not necessary or inherent.

Applicant also notes that neither *Phillips et al.* nor *Downes* discloses, teaches, or suggests “labeled packets,” as recited in claims 2, 8, and 13. Furthermore, even assuming, *arguendo*, that *Downes* disclosed “labeled” packets rather than just Ethernet packets, there would be no motivation to combine this feature with *Phillips et al.*. A TDM system has no need for labeling, since a particular voice channel is identified by time slot.

3) Conclusion

Accordingly, the proposed combination of *Phillips et al.* in view of *Downes* does not teach at least the above-described features recited in claims 2, 8, and 13. Since the proposed combination does not teach at least the above-described features, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claims 2, 8, and 13 are not obvious under the proposed combination, and the rejection should be withdrawn.

b. Claims 4-5, 9-12 and 14-19

Since claims 2, 8, and 13 are allowable for at least the reasons discussed above, Applicant respectfully submits that claims 4-5, 9-12 and 14-19 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 4-5, 9-12 and 14-19 be withdrawn.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 2, 4-5, and 8-19 be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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